

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

JENNIFER LAKE, as Personal  
Representative of the Estate of  
BENJAMIN PELCH, JR., Deceased,

CASE NO.:

Plaintiff,

Lower Case No.: 08-89404-NM  
HONORABLE: Joseph J. Farah

v

HEARTLAND - BRIARWOOD MI, LLC  
d/b/a HEARTLAND HEALTH CARE  
CENTER - BRIARWOOD, and as  
Successor Corporation to HEARTLAND  
HEALTH CARE CENTER - BRIARWOOD,  
and/or EAST MICHIGAN CARE  
CORPORATION and/or MANOR CARE,  
INC.,

Defendants.

SCOTT L. FEUER (P38185)  
Attorney for Plaintiff  
251 Merrill Street  
Suite 203  
Birmingham, Michigan 48009  
(248) 723-7828, Ext. 201

WILLIAM D. CHAKLOS (P33180)  
DAVID C. WIEGEL (P57277)  
Kitch Drutchas Wagner Valitutti &  
Sherbrook, P.C.  
One Woodward Avenue, Suite 2400  
Detroit, MI 48226  
(313) 965-7415

MICHAEL J. KELLY (P41358)  
Co-Counsel for Plaintiff  
717 S. Grand Traverse Street  
Flint, Michigan 48502  
(810) 235-4100

**NOTICE OF REMOVAL BY DEFENDANT**

TO: THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

NOW COMES the defendant, HEARTLAND - BRIARWOOD MI, LLC d/b/a  
HEARTLAND HEALTH CARE CENTER - BRIARWOOD, and as Successor Corporation  
to HEARTLAND HEALTH CARE CENTER - BRIARWOOD, and/or EAST MICHIGAN

Kitch Drutchas  
Wagner Valitutti &  
Sherbrook  
ATTORNEYS AND  
COUNSELORS  
ONE WOODWARD AVENUE,  
SUITE 2400  
DETROIT, MICHIGAN  
48226-5185

(313) 965-7900

CARE CORPORATION and/or MANOR CARE, INC., by and through its attorneys, KITCH DRUTCHAS WAGNER VALITUTTI & SHERBROOK, and hereby respectfully submits this Notice of Removal for the above-captioned case, and as grounds for removal, states as follows:

1. Plaintiff filed an action in the State of Michigan, Circuit Court for the County of Genesee, against defendant, Heartland Health Care Center - Briarwood, doing business as Manor Care, Inc. (Complaint, attached hereto as Exhibit A.)

2. That defendant received a copy of said Complaint on October 6, 2008.

3. That this case is accordingly being removed within thirty (30) days after receipt by the defendant of a copy of the initial pleading setting forth the claim for relief.

4. That there are no pleadings, other than the Complaint, and no proceedings have been had in the State Court action.

5. That the above-captioned action is a civil action over which this Court has original jurisdiction under the provisions of Title 28, U.S.C. §1332, and is one which may be removed to this Court by the petitioner, defendant herein, pursuant to the provisions of Title 28, U.S.C. §1441, in that it is a civil action when the matter in controversy exceeds or may exceed the sum and value of seventy-five thousand and no/100s (\$75,000.00) dollars, exclusive of costs, attorney fees, and statutory interest, according to the allegations of the injuries and damages in the Complaint, and is between citizens of different states, defendant having been incorporated under the laws of the State of Ohio, and having its principal place of business in the City of Toledo, State of Ohio, and the plaintiff being a resident and citizen of the State of Michigan, according to her Complaint, as of the time of the occurrences alleged in the Complaint and continuing through the filing of this action to the present.

Kitch Drutchas  
Wagner Valitutti &  
Sherbrook  
ATTORNEYS AND  
COUNSELORS  
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SUITE 2000  
DETROIT, MICHIGAN  
48226-5445

(313) 965-7900

WHEREFORE, defendant gives notice that this action is therefore removable to this Court pursuant to 28 U.S.C. § 1441 because it is within this Court's original "diversity" jurisdiction, and no defendant properly joined is a citizen of Michigan.

Respectfully submitted,

KITCH DRUTCHAS WAGNER  
VALITUTTI & SHERBROOK, P.C.

By: /s/ David C. Wiegel  
WILLIAM D. CHAKLOS (P33180)  
DAVID C. WIEGEL (P57277)  
Attorneys for Defendant  
One Woodward Avenue, Suite 2400  
Detroit, MI 48226  
(313) 965-7415

Dated: November 4, 2008

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**AFFIDAVIT OF COUNSEL**

STATE OF MICHIGAN )  
 ) ss  
COUNTY OF WAYNE )

The undersigned, being fully duly sworn, deposes and says that he is the attorney for the defendant, that he has read the foregoing Notice of Removal and he knows the contents thereof, and the same is true to the best of his knowledge, information and belief.

/s/ David C. Wiegel  
DAVID C. WIEGEL (P57277)  
Attorney for Defendant

Subscribed and sworn to before me  
this 4th day of November, 2008.

  
Notary Public, Alison Bragg  
State of Michigan, County of Wayne  
My Commission expires August 29, 2012

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EASTERN DISTRICT OF MICHIGAN  
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Defendants. /

**AFFIDAVIT OF SERVICE**

STATE OF MICHIGAN     )  
                                      )ss.  
COUNTY OF WAYNE     )

I hereby certify that on November 4, 2008, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system which will send notification of such filing to the following: \_\_\_\_\_, and I hereby certify that I have mailed by the United States Postal Service the paper to the following non-ECF participants:

Scott L. Feuer, Esq.  
251 Merrill Street, Suite 203  
Birmingham, Michigan 48009

Michael J. Kelly, Esq.  
717 S. Grand Traverse Street  
Flint, Michigan 48502

Respectfully submitted,

KITCH DRUTCHAS WAGNER VALITUTTI &  
SHERBROOK, P.C.

By: /s/ Alison Bragg secretary to David C. Wiegel  
WILLIAM D. CHAKLOS (P33180)  
DAVID C. WIEGEL (P57277)  
Attorneys for Defendant  
One Woodward Avenue, Suite 2400  
Detroit, MI 48226  
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Dated: November 4, 2008

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